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#### **PATENT**

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re th	ne application of:  Mikes, et al.	.)		
Serial :	No.: 10/685,270	)	Art Unit:	2883
Filed:	October 14, 2003	)	Examiner:	Hughes, James P.
For:	SYSTEM AND METHOD FOR USING CONCENTRIC SPECTROMETER TO MULTIPLEX OR DECMULTIPLEX OPTICAL SIGNALS	) ) ) )	Docket No.:	10004278-1

# REPLY TO DECISION REFUSING STATUS UNDER 37 C.F.R. 1.47(a)

Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In regard to the Decision Refusing Status Under 37 C.F.R. 1.47(a) mailed on August 1, 2005, Applicants submit the following remarks.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to Agilent Technologies, Inc. Deposit Account No. 50-1078.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States

Postal Service as First Class Mail in an envelope, with sufficient postage,
addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450,
Alexandria, VA, 22313-1450 on 8-16-05

Signature: A, East

### **REMARKS**

In the Decision Refusing Status Under 37 CFR 1.47(a) mailed on August 1, 2005, it is asserted that the Petition to Accept Declaration filed by Applicants on October 14, 2003, is dismissed because it allegedly lacks certain items specified in 37 C.F.R. §1.47(a). In particular, it is alleged that the Petition lacks: (1) proof that the non-signing inventor, Thomas Mikes, cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration, and (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116.

Since filing the Petition of October 14, 2003, Applicants have obtained a signed Declaration from inventor, Thomas Mikes. A copy of such Declaration was filed along with the First Response on March 17, 2005, and is submitted herewith along with a newly executed Declaration from the other inventor, Lian Xiang. Accordingly, it is unnecessary for Applicants to submit item (1). Further, it is believed that the documents submitted herewith satisfy 35 U.S.C. §§115 and 116. Therefore, Applicants respectfully request that the Patent office accept the Declarations submitted herewith and allow the instant application proceed to examination and issuance. In particular, Applicants request that the instant application be forwarded to the Examiner so that he may consider the First Response filed by Applicants on March 17, 2005.

If the Examiner has any questions or comments regarding this paper, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.

By:

Jon E. Holland Reg. No. 41,077

(256) 704-3900, Ext. 103

Agilent Technologies, Inc. 3500 Deer Creek Blvd. MS 26U-25 Palo Alto, CA 94304-1317

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION



ATTORNEY DOCKET NO. 10004278-1

As a below named inventor, I hereby declare that:

My residence/post office address and citizenship are as stated below next to my name:

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

the specification of wh	nich is attached here	eto unless the followin	g box is checked:			
was filed	on October 14, 200	3 as US Applicati	ion Serial No. or PCT Int	omotional A		
Number <u>10/6</u>	85,270 and was	amended on	(if applic	emational A	pplication	
I hereby state that I ha	ave reviewed and ur	derstood the content	s of the above-identified dge the duty to disclose		n, including the claims, as on which is material to	••
application on which prior	iority benefits under Tit nd have also identified	to 25 I loited Chates Or	de Section 119 of any foreiç ation for patent or inventor	n application (s) certificate	(s) for patent or inventor(s) having a filing date before that	of the
COUNTRY	Al	PPLICATION NUMBER	DATE FILED		PRIORITY CLAIMED UNDER 35 U.S	.C. 119
	<u> </u>				YES: NO:	
					YES: NO:	
Provisional Application			<del></del>			
I hereby claim the benefit	under Title 35, United	States Code Section 1	19(e) of any United States p	rovisional ap	plication(s) listed below:	
	APPLICATION	N SERIAL NUMBER	FILING			
U. S. Priority Claim	L					
I hereby claim the benefit	under Title 35, United	States Code, Section 1	20 of any United States and	dication(e) liet	ted below and, insofar as the	
paragraph of Title 35 Uni	ited States Code Section	on 442 dealer and a dealer	the phot officed States ap	plication in the	e manner provided by the first	
Federal Regulations, Sec	tion 1.56(a) which occ	urred between the filing	date of the prior application	and the nation	is defined in Title 37, Code of anal or PCT international filing of	data
APPLICATION SE			NG DATE			uate
				SIA	TUS (patented/pending/abandoned)	
				SIA	TUS (patented/pending/abandoned)	
				SIA	TUS (patented/pending/abandoned)	
POWER OF ATTORNEY						
POWER OF ATTORNEY: As a named inventor, I he and Trademark Office con	: reby appoint the follow	ing attorney(s) and/or a				tent
As a named inventor, I he and Trademark Office con	: reby appoint the follow nected therewith: comer Number	ing attorney(s) and/or a			transact all business in the Pat	tent
As a named inventor, I he and Trademark Office con  Cust  Send Correspondence AGILENT TECHNOLOG	reby appoint the follow nected therewith: comer Number to:	022878	gent(s) to prosecute this ap  Place Customer  Number Bar Code	plication and		tent
As a named inventor, I he and Trademark Office con  Cust  Send Correspondence AGILENT TECHNOLOG Legal Department, DL	reby appoint the follow nected therewith: comer Number to : SIES, INC.	022878	gent(s) to prosecute this ap  Place Customer Number Bar Code Label here  Direct Telephone Calls To	plication and		tent
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As a named inventor, I he and Trademark Office con Cust  Send Correspondence AGILENT TECHNOLOG Legal Department, DL 4 Intellectual Property Ac P.O. Box 7599 Loveland, Colorado 809  I hereby declare that all belief are believed to be like so made are punish such willful false statem  Full Name of Inventor: Residence: Wellingto	to: SIES, INC. 429 dministration 537-0599 dstatements made he true; and further the hable by fine or imprinents may jeopardize: Thomas L. Mikes n, FL. 33414	o E. Holland 6) 704-3900 erein of my own know at these statements wisonment, or both, une the validity of the ap	pent(s) to prosecute this ap  Place Customer Number Bar Code Label here  Direct Telephone Calls To  OR  Medge are true and that were made with the know der Section 1001 of Title plication or any patent is	plication and : : all statemen fledge that v 18 of the U sued thereo	transact all business in the Pat	
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As a named inventor, I he and Trademark Office con Cust  Send Correspondence AGILENT TECHNOLOG Legal Department, DL 4 Intellectual Property Ac P.O. Box 7599 Loveland, Colorado 809  I hereby declare that all belief are believed to be like so made are punish such willful false statem  Full Name of Inventor: Residence: Wellingto	to: SIES, INC. 429 dministration 537-0599 dstatements made he true; and further the hable by fine or imprinents may jeopardize: Thomas L. Mikes n, FL. 33414	o E. Holland 6) 704-3900 erein of my own know at these statements wisonment, or both, une the validity of the ap	pent(s) to prosecute this ap  Place Customer Number Bar Code Label here  Direct Telephone Calls To  OR  viedge are true and that were made with the know der Section 1001 of Title plication or any patent is	plication and all statement dedge that we sued thereof citizens	transact all business in the Pat its made on information and villful false statements and to nited States Code and that on.	

Rev 10/04 (DecPwr)

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION (Continued)

# ATTORNEY DOCKET NO. 10004278-1

Full Name of # 2 Joint Inventor: Lian Xiang Residence: Acton, MA, 01720 Post Office Address: 42 Quarry Road, Acton, MA, 01720	Citizenship: U.S.
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature .	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date



## DECLARATION AND POWER OF ATTORNEY ATTORNEY DOCKET NO. 10004278-1 FOR PATENT APPLICATION As a below named inventor, I hereby declare that: My residence/post office address and citizenship are as stated below next to my name: I believe I am the original, first and sole Inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: SYSTEM AND METHOD FOR USING A CONCENTRIC SPECTROMETER TO MULTIPLEX OR DEMULTIPLEX OPTICAL the specification of which is attached hereto unless the following box is checked: F was filed on October 14, 2003 as US Application Serial No. or PCT International Application (If applicable). Number 10/685,270 and was amended on I hereby state that I have reviewed and understood the contents of the above-Identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR 1.56. Foreign Application(s) and/or Claim of Foreign Priority I hereby daim foreign priority benefits under Title 35, United States Code Section 119 of any foreign application(s) for patent or inventor(s) certificate listed below and have also identified below any foreign application for patent or inventor(s) certificate having a filing date before that of the application on which priority is claimed: APPLICATION NUMBER DATE ELED Provisional Application I hereby claim the benefit under Title 35, United States Code Section 119(e) of any United States provisional application(s) listed below: APPLICATION SERIAL NUMBER FILING DATE NVA U. S. Priority Claim I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filling date of the prior application and the national or PCT international filling date of this application: NA POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Palent and Trademark Office connected therewith: PRACTITIONERS ASSOCIATED WITH CUSTOMER NUMBER 022878. Direct Telephone Calls To: Send Correspondence to: Customer Number 022878 lan Hardcastle (650) 485-3015 OR AGILENT TECHNOLOGIES, INC. Legal Department, DL 429 Intellectual Property Administration P.O. Box 7599 Loveland, Colorado 80537-0599 I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. Full Name of Inventor: Thomas L. Mikes Residence: Wellington, FL, 33414 Post Office Address: 12929 Mixner Way, Wellington, FL, 33414 Citizenship: US

Page 1of 2

Date

Inventor's Signature

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION (Continued)	ATTORNEY DOCKET NO. 10004278-1
Full Name of # Joint Inventor: Lian Xlang Residence: Acton, MA, 01720 Post Office Address: 42 Quarry Road, Acton, MA, 01720  Inventor's Signature	Citizenship: U.S.
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Investor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Detre
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Date
Full Name of # Joint inventor: Residence: Post Office Address:	Citizenship:
Inventor's Signature	Dute
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenship:
Investor's Signature	Date
Full Name of # Joint Inventor: Residence: Post Office Address:	Citizenshlp:
Inventor's Signature	Date